THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NOs.23481, 23656, 23663, 23664,

23665, 23666, & 23716 OF 2005

Dated 22nd November 2005

Between:

Prakasam Engineering College, Kandukur,

Prakasam District, rep. by its Treasurer & another

…Petitioners

And

Government of A.P., rep. by its

Prl.Secretary, Higher Education (EC) Department,

Hyderabad & another.

…Respondents

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COMMON ORDER:

In these writ petitions, the short question that arises for consideration is, as to whether the candidates to be considered for admission into the II-year of B.Tech course, through lateral entry, must appear in the entrance examination, as a condition precedent, or it would be sufficient, if they possess 60% marks in the Diploma Course. The petitioners are the Engineering Colleges and students, as the

case may be.

Heard the learned counsel for the petitioners, learned Senior Counsel for AICTE, learned Government Pleader for Higher Education and learned Standing Counsel for A.P. State Council of Higher Education.

Ordinarily, admissions into Engineering Courses are made at I-year. The AICTE had formulated a scheme, way back in the year 1992, providing for admission for the candidates, who hold 3-year Diploma Course after Matriculation, to be admitted in the II-year Engineering Courses. 10% of supernumerary seats were permitted for this purpose. At subsequent stage, permission was accorded to fill the vacant seats in II-year that resulted on account of
non-admission of students in the I-year course, through such candidates. In its policy framed way back in the year 1992, the AICTE prescribed that only such of the candidates, who have possessed 60% marks in the 3-year Diploma Course and have appeared in the entrance examination conducted for this purpose, shall be eligible to be admitted through lateral entry.

The petitioners contend that though an entrance examination was conducted for this purpose, adequate candidates are not available, and in such an event, the colleges be permitted to admit the diploma holders into II-year of B.Tech course, without insisting on appearance in the entrance examination. Similarity is drawn from the orders dated 23.9.2005, passed by the Supreme Court in I.A.Nos.90 and 96 in Writ Petition (Civil) No.350 of 1993, as well as an order dated 21.10.2003, passed by this Court in W.P.No.21988 of 2005.

It is true that the Supreme Court passed an order to the effect that if adequate number of candidates, who have qualified in the entrance examination, are not available for admission into Engineering Courses, the left over seats can be filled by the candidates, who have passed 10+2 examination, or its equivalent, without insisting on appearance in the entrance examination, and that similar facility was extended to MBA and MCA courses by this Court, through its order in W.P.No.21988

of 2005. One distinguishing feature, in the present case, is that the qualification for admission, prescribed by the AICTE for the courses referred to above, is the pass in the required course, and conducting of entrance examination was left to be undertaken by the concerned State Governments, whereas, in case of lateral entry, the AICTE itself prescribed dual condition of pass in diploma and entrance examination. Therefore, the same facility, as extended to Engineering I-year and MCA courses, cannot be extended to lateral entry in the II-year of Engineering Courses.

At the same time, the submission made by the petitioners cannot be brushed aside, either as irrelevant, or untenable. The very purpose of providing lateral entry is to enable the diploma holders to acquire Engineering Course. No purpose would be served, if the infrastructure provided by the colleges is permitted to go waste. The object of conducting entrance examination is to filter the candidates, where the demand is more, when compared to the available seats. If the seats are available in plenty, the entrance examination does not retain the same significance. These, however, are matters, which need to be addressed to by the concerned agencies, which control the admission process. This Court is not inclined to take any definite stand on these aspects. The State Government, which is the agency and which conducts the entrance examination, can be required to pass an order, in this regard, duly ascertaining the views from the AICTE. Having regard to the urgency involved in the matter, the State Government has to take a decision, at the earliest possible time.

For the foregoing reasons, the writ petitions are disposed of, directing the State Government to announce its decision on these aspects, duly ascertaining the views of the AICTE, within a period of ten days, from the date of receipt of a copy of this order. It shall be open to the petitioners to make fresh representations, or to supplement the reasons for their request. There shall be no order as to costs.

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22nd November 2005

Note: Issue C.C. in two days.

(B/o)

PAN